1883-004 Chancery Cause: William M. G. Barron vs. Jonathan M. Wyatt &c
Lee Co.

Hiatt, Wiatt, Carico, Bruce, Hyatt

CA - Debt
T - Property

To the Honorable John A. Kelly Judge of the Circuit Court of Lee County;

Your Orator Wm. A. G. Banaver. assignee of John A. G. Hiatt humbly complaining sheweth unto your Honor, that on the 16th day of February 1871, one Jonathan M. Hyatt, executed to said Hiatt his writing obligatory, whereby he the said Hyatt bound himself to pay the said Hiatt by the 16th, day of February 1872 the sum of one hundred and fifty dollars; and a lien was retained in said note upon said Hiatt's interest in a certain tract or parcel of land situated in this county, in the neighborhood of Turkey Cove Known as Mary Jones's dower lands. This writing obligatory was by the said Hiatt on the 4th day of Dec. 1871 assigned for value received to your orator, by a written endorsement entered on the back of said writing- Upon this bond there is entered the following credits, viz. $33.13 for note executed to F. Richmond Aug. 17th 1871; And $19.05. June 2nd 1872, This said bond was to bear interest from the date thereof; And all said sum except the credits aforesaid are now due and owing to your orator- this said writing obligatory will be found herewith filed, and is prayed to be considered as part of this bill

Your orator alleges, that said John A. G. Heatt as vendor as aforesaid still retains the legal title to said land as a further security for the payment of said bond and that as such vendor, retaining the legal title he has by virtue of law, as your orator is advised a lien for said purchase money of which said bond is a part.

Your orator is further advised that he as said Heatt's assignee, will be substituted to all the rights remedies and liens held by said Heatt to extent of the bond assigned. As your orator has not the legal title himself, nor the control thereof, he is advised that said Heatt will be enjoined and inhibited from conveying the same to said Hyatt, until your orator is fully paid his just demand; and that said Heatt will be compelled to file with his answer to this bill his deed of escrow to be valid & binding when the whole purchase money is paid.

The object of this bill therefore is to obtain a decree substituting your orator to the rights & remedies of of said John A. G. Heatt to enforce said lien upon the lands aforesaid, to enjoin and inhibit said Hyatt from parting with said lien until your orator is fully paid: to compel him to file his escrow deed therefor with this cause, and to have so much of said land sold as may be necessary to pay your orators claim.

To this end he prays that John A. G. Hiatt and Jonathan W. Wyatt be made parties defendant, to this bill, and answer its allegations upon oath; and upon a hearing your orator be substituted to all rights remedies & liens now held by said Hiatt and that the same be enforced against said land: that said Hiatt be compelled to file his deed therefor with this cause to take effect & be binding when the purchase money is fully paid: that said land or so much thereof as may be necessary be sold and payment made to your orator of the claim due him. And for all other further and general relief. May supa issue &c

Hagan & Pridemore

Comr & Clfs 14.53 [illegible]
Clk 1.80 [illegible]

Atty	15.00
S.	1.40
	$32.53
Wyatt C.	1.42 Pd
	33.95
	1.76 Pd
Estimated	$35.71

Defts Costs

O & C	.50
[illegible]	.80 Pd
J.R.A	2.50
A	15.00
H. C. Carico	1.48

H.D.

Wm. N. G. Barron Sr.

vs Bill Chy

Jonathan M. Wyatt et al

Exhibit filed

1877 Feb, Bill filed & Spa Executed & Decree Nisi

" Mr Decree Nisi Confd & set for hearing by Plaintiff

" Mr 20th Ans of Wyatt filed

1877 Apl 5th, Decree for Acct

" Aug & Nov Contd.

1878 Mr Contd,

" Aug & Nov Contd

1879 Mr, Aug & Nov Contd

1880 Mr & Aug Contd

1881 Mr. continued.

" Aug Decree not Entd

1882 Mr, Decree not Entd

Aug & Nov Contd

1883 Mr Decree final

Virginia Smyth circuit court to wit

To the Honl John A Kelly Judge of the said court, your petitioner Johnathan M Hiatt respectfully represents to your Honor, that on the day, of Feby 1877 one Wm N G Banon filed his Bill in the chancery side of your Honorable court against your petitioner & one A G Hiatt seeking to enforce a lien he claimed for $150 on a tract of land your petitioner had Bought of said Hiatt, in his said Bill he alleged that your petitioner had Bought the land of Hiatt, and given the note for $150 to him for the purchase money that Hiatt had the legal title to the land & reserved it to pay the $150 purchase money, that Hiatt had assigned the note to the plff and defts have not paid it except certain credits endorsed on the note, and praying to substitute him to the lien of Hiatt, and restrain Hiatt from conveying the land & to compell him to file an escrow deed to your petitioner, and to decree so much of the land to be sold as would pay his debt &c reference is here made to the Bill for a more precise and full statement of its allegations. Exhibit L now on file in your honorable court, Hiatt did not answer the Bill nor file an answer, your petitioner answered admitting he had Bought the land of Hiatt and given the note for part of the purchase money and offered to pay it when he could get a good legal title conveyed to him Britt alleged that the legal title was in the infant heirs of Mrs Caroline Currie who had deceased that the land Belonged to Caroline Currie by descent from her ancestors that her husband J M Currie had sold it & give his Bond to John H T Riddle to convey a good title, and Mrs Currie had died before it was conveyed, That Riddle owed Currie unpaid purchase money on it, and sold the land to Hiatt and assigned Curries Bond for a title to him, That Hiatt had not paid all the purchase money to Riddle he owed for it that Hiatt had sold to your petitioner the said land and assigned Curries Bond to him & filed it that he still owed the Bond for $150 to Hiatt that had Been assigned to Burns which he was ready & willing and anxious to pay when he could get a clear legal title with covenants of warranty. The answer on file & Bond for title are referred to to show their statements averments &c, in this state of affairs J. W. Currie who was [illegible] guardian for the infant title holders, filed his Bill against his wards praying a decree to sell the [illegible] or to confirm the sale he had made & such proceedings was had therein as resulted in a decree confirming the sale & ordering a sale to be made of other lands not heretofore sold & appointing said Currie a comr to convey the lands he had sold and to sell the other lands not sold for money with warranty. This Bill & proceedings therein are referred to they are on file, in this state of affairs at the August Term 1881 of your honorable court the decree appointing Currie to make a conveyance, was so far modified as to remove Currie as

comm & appoint J R Gibson a comm
to make a deed to your petitioner and
report to court, he on the next day
reported the deed filed in the papers
to which the court is referred and
the court confirmed the deed with
out affording time to your petitioner
to except to it and thereupon
rendered a decree to sell your petitio-
ners land to pay Burns with
said decree Burns to recover his
costs against your petitioner and
allowing $250 allowance to comm Gibson
for making the deed, these decrees
your petitioner supposes are inter
locutory only & in the power of your
honor to alter modify or vacate
the said decrees for the following Errors

1st it was Error to remove J M Carico from
his commissionership & appoint Gibson
thereto without a rule to show cause
against it

2d it was Error to decree the land to be
sold to pay Burns, lien without
liquidating and settling the
prior liens

3d it was Error to force on the petitioner
a comms deed of special warranty

when the Bond for title assigned to him required a deed of general warranty.

4 th it was Error to confirm the com'rs deed at once, time to except to it should have been given

5th It was Error to give the plff Barnes costs against the petitioner, Because the plff was not in an attitude when he began his suit and at no time thereafter to Execute the contract on his part as was his obligation. A suit to enforce the Vendors lien is in effect a suit to compell a Specific Execution of a contract of sale, and a Vendor who begins a suit to specifically enforce a contract of sale, that he is not himself able to execute, is not entitled to costs, and an assignee is in no better condition, than the Vendor stands in, we are not in this case liable for costs But was entitled to recover our costs wherefore we ask for a decree for our costs, and an order on Barnes to pay Back the costs he received and has collected off of the petitioner,

Wm H Burns atty for petitioner

J M Wyatt

vs } petition

Burnes

Filed Mr. 1882

J A G Hyatt

Virginia Lee circuit court Court

To the Honerable Judge of the said court siting in chancery,

The Answer of Johnnathan M Wyatt to a Bill in chancery filed against him and others in this honerable court, By Wm. N. G. Barron, This defendent, saveing to himself the Benefit of all proper exceptions to the plffs Bill for its many errones & false statements, for an answer to so much thereof as he is advised it is material for him to answer, answers, and says It is true he executed to his codefendant Hiatt the note or Bond filed as an exhibit in the Bill, and it is true it was given as the Ballance of the purchase money that he agreed to give his co defendent for an interest in a tract of Land situate in this county, that his codefendent claimed by an executory contract, as herein after stated, and which interest he sold to your respondent, But it is wholy untrue that his codefendent has the Legal title to said Land, or can convey it to your Respondent the Land is a part of the Lands that descended from Stephen Jones at his death to his heirs, and it

a part of that that had been assign
to the widow of Stephen as her dower
in her husbands real estate, all the
other lands except that assigned for
dower, had been partitioned amongst
S Jones, heirs, that assigned as dower
was never divided and partitioned
until the death of the widow, which
took place on the   day of   18
After her death the dower lands was
partitioned amongst the heirs,
and your respondent and his sister
Caroline Carico, Being grand children
of Stephen Jones, the only heirs of his
daughter Ledonia Wyatt who had
deceased together inherited her share,
which was laid out to them jointly,
his Sister intermarried with one
Jas M   Carrico, and he sold her
undivided interest & his, as husband to B. F. Riddle
and took Riddles Bond for the purch
ase money & gave Riddle his Bond for
a title, his sister had issue Born
alive by her husband, in this state
of affairs, Riddle never paid the
purchase money, nor has he yet
and Carrico & wife never made him
a deed conveying their right in the land to Riddle

Riddle then sold it and assigned
Carricos Bond for a title to Hiatt
and Hiatt without having paid
the purchase money Riddle owed to
Carrico, sold the Land to your
orator and assigned Carricos
Bond for a title to your orator
Riddle having assigned it to Hia
tt, Before any title was made
to Riddle Mrs Carrico died the mother
of several infant Children to whome
the title descended. from this plain
Statement of facts, and the Bond of
Carrico here filed as a part hereof
and the assignments on the Bond
marked (A) it appears, and your respondent
represents it to be true, that the
plf, Hiatt, Riddle nor Carrico cant
convey the feesimple title to the Land
and it is not in either one of them
But it is in the children of Mrs Carrico ~~Hiatt~~
He moreover represents, that Ridle
has not paid Carrico the purcha
se money and Carrico has a para
mount lien on his right by the cur
tesy for the purchase money due
him, to that set up By the plf.
He is ready, willing and Anxous

to pay he owes, and

to pay the purchase money, he owes and execute the contract on his part provided he can get a clear unincumbered title in fee simple to the land But is unwilling to part with his money without, and therefore resists the enforcement of the plfs pretended lien, having fully answered the plfs Bill, and here now generally denying all the allegations thereof not herein before confessed, denied &c prays hence to be dismissed with his costs &c,

Burns for Deft
Wyatt

Virginia, Lee County, to wit,

The foregoing answer was this day sworn to before me by Jonathan M Wyatt to be true so far as the facts stated depend upon his own knowledge and so far as the facts are stated upon information derived from others he believes them to be true. Given under my hand this Nov 29th 1877. James W Orr. Clerk.

J. M. Wyatt
ads } Answer
Wm N. G. Barron

Filed Nov 30th 1877.
James W Orr. Clerk.

To the Hon. John A. Kelly Judge of the Circuit Court of Lee County.

The demurrer and answer of Wm. A. G. Barron to a petition filed in this Hon. Court against your respondent in the pending chancery causes of Wm. A. G. Barron sen. against the petitioner Jonathan M. Wyatt, et als. and of Joseph M. Canico against Charles W. Canico et. als. Respondent is advised that said petition is not sufficient in law so as to require of him any other or further answer thereto But if deemed necessary to answer answering he says, The statement of the filing a bill by your respondent, to enforce a purchase money lien against the petitioner; his answer, thereto; the filing of the bill of Canico, and the failure of the petitioner to answer that, are all true

Your respondents bill was filed at the Feb. Rules 1877, The bond sued on fell due Feb. 1872, was then over the five years. J. M. Canico according to the pltffs petition as husband held Courtesy in said lands, and by commissioner Morgans report filed July 19: 1880 That interest is shown to be the sum of $399.91.

The report of James W. Orr filed May the 1878, shows the original trade, and the papers in the case show Wyatt to be only a purchaser of a part of the lands sold - So that no injury could have resulted to the petitioner, by the payment of his bond. Commissioners report shows the sale by Canico to have been made on the 14th Dec. 1869, and that the purchase money all fell due 4th Dec. 1870 Mrs Canico died in 1876, during all which time no steps were taken, to enforce the contract - The bond sued on by Banon only shows a sale by Hyatt, and therefore the assignee could have no knowledge of the condition of the title - He was therefor prima facia entitled to sue. And if so he is advised he is properly entitled to his costs. But suppose all the petitioner says is true and as to the course & character of title it is admitted - Here it is: Canico, for himself and wife in 1869, sell the land to John B. F. Riddle, Riddle sells a part thereof, to John A. G. Hyatt, this was a sale by exchange of lands, and Hyatt, still held lien on the lands exchanged by him, an equity Wyatt could as your respondent is advised avail himself of - Now your petitioner is advised that, as Hyatt could for costs or lapses according to his view recourse on Hyatt, Hyatt on Riddle and Riddle on Canico, and as Canico is before the this Court by a consolidation of these Causes by the decree of Aug. 27 1881, your petitioner is advised to prevent multiplicity of suits and circuity of action a court of chancery will administer the relief sought by the petitioner if any he has between the said Petitioner and Canico— How could your respondent ever have realized his money? Five years had elapsed, since his right of action accrued, and Canico nor the petitioner ever made the slightest, effort to close up the matter, but so soon as your respondent commenced to eforce his rights they the petitioner & Canico have "pulled" together to hinder and delay And now seek to saddle the costs of their neglect and delay on one who clearly had the right to sue & close this much delayed matter up.

Your respondent conceives that he ought not to pay costs to collect his debt *as to how this Court may settle them as between the petitioner and Canico he has no choice— He insists that the decree in his favor for costs is correct & properly

*since the petitioner could have filed his cross bill in your respondents action or compelled amendment thereof, and thus enforced his rights if any he had.

renders, and that the proceeds show that fact to all which he here refers — As to the making and confirming said deed the usual practice was pursued, and no error exists on that account — and having now fully answered he prays to be dismissed with his costs.

A. L. Pridemore
for respondent

Wm. N. G. Barron,
ads } On Petition
Jonathan M. Wyatt,

Filed Aug. 1881
J. A. S. Hyatt
Clerk

Wm N. G. Barron
Vs } In Chy —
Johnathan M. Wyatt &als

Joseph M. Carico Guard &c
Vs } In Chy.
Chs. C. Carico Et als

Upon an inspection of the cause of Baron Vs Wyatt &als. it appears that there is nothing further necessary to be done, it is therefore ordered that the same be and is hereby Stricken from the docket with leave to J. M. Wyatt to withdraw his deed filed in these causes made to him by Comr. John R. Gibson. And the second named cause of Carico Guardian &c. C. C. Carico &als. is continued.

Wm H. G. Barron
vs } Decree Final
Johnathan M. Wyatt

J. M. Carico guardn
vs } Order continuance
Chs C. Carico

Entered page
313. Wyatt
Clerk

Enter this

Jn. A. K.

April 3d 1883

Wm N G Barnes Plff
vs
J M Wyatt Deft
&
J M Cavis Plff
vs
Charles C Cavis et als Defts
} Decree

These causes having heretofore been consolidated and heard together, and this day coming on to be heard on the petition of J M Wyatt to reverse & vacate the interlocutory decree rendered therein at the last term of this court awarding costs in [illegible] favor the the plff Barnes against the defendant Wyatt and being argued by counsel and maturely considered by the court, it seems to the court that the interlocutory decree, is erroneous so far as it gives the plff Barnes costs against the defendant Wyatt it is therefore reversed annulled and set aside. it seems to the court that J M Cavis is the party in default and should be held to pay the costs, it is therefore decreed and ordered that the plff Barnes recover of the Wyatt his [illegible] ofs of J M Carrico their costs, by them respectively, expended herein to be taxed by the clerk to them respectively, ~~so which they may respectively have expended, and the cause is continued~~ and the same is ordered to be paid, ~~by~~ out of the fund due in the cause of J. M. Carrico against Charles C. Carrico, and which is shown in said Cause, by commissioner Morgans report to be due to J. M. Carrico in his own right — and the causes are continued.

Wm N. G. Barron &c
vs } Decree
Jos. M. Carrico

Entered Page 251
J. A. G. Hyatt
Clerk

Enter this decree
April 4th 1882
Jn. A. K.

Joseph M. Carico Guardn Pltff.
Against } In Chy
Charles Carico et als - - Defts

Wm A. G. Borron Sr. Pltff
Against } In Chy.
Jonathan M. Hyatt et al Defts

These Causes Came on again this day to be heard upon the papers formerly read and the report of John R. Gibson special Commissioner this day filed, accompanied by the deed of Conveyance to Jonathan M. Hyatt, to neither of which there are no exceptions; On consideration whereof and for reasons appearing to the Court said report and accompanying deed are and each of them are confirmed and made final. And the clerk of this Court will deliver said deed to said Hyatt, when the Commissioner hereinafter named shall report in this Cause that the balance of said purchase money is fully paid and he has also paid J. R. Gibson Comr for executing said deed $2.50. And it is further adjudged ordered and decreed that the pltff in the second above styled cause, Wm A. G. Borron Sr. recover from Jonathan M. Hyatt the sum of $150. with legal interest thereon from the 16th day of February 1872 until paid, subject to a credit of $33.03. paid Aug. 17th 1871, and $19.05 paid June 2d 1873.

And that he recover the costs of his suit the sums above styled. And unless the said Jonathan M. Hyatt shall pay the sums herein decreed against him within 30 days from the rising of this court then A. L. Pridemore who is hereby appointed a special commissioner for the purpose will sell said lands or so much thereof as may become necessary to pay the same He will make sale thereof on a credit of 6, and 12 months, except so much as may be necessary to pay costs of suit & sale which he will require paid in hand. at the front door of the Court House of said County on some Court day by public out cry to the highest bidder

But before proceeding to make sale, he will post notice thereof for at least 30 days on the front door of the Court House and in the neighborhood where the land lies, setting out time terms & place of sale. And Commissioner Gibson will enquire and report to this court at its next term, to whom said Joseph M. Carrico guardian &c sold the outer lots of land mentioned in Comr. Morgans report, and the amt of purchase money yet due and from whom. Commissioner Pridemore will report his action to this Court from time to time as the Cause is continued.

Davies vs Davies and
Wm A. G. Berron

23} Decree for
Sale.

Jonathan M Hyatt
Aug. T. 1881

Entered pages 234—25—
J. A. G. Hyatt
Clerk

Enter this.
Aug. 30th 1881
Jno A. K.

Wm A. G. Barnum . . . Pltff -
vs
Jonathan M Wyatt et al Deft. } In chy.

This cause came on this day to be heard
upon the bill of the plaintiff and exhibits filed
taken for confessed as to John A. G. Wyatt, and the
answer of Jonathan M. Wyatt, ~~and replication~~
~~thereto~~, the exhibit filed and general replication
thereto, and was argued by counsel, on con-
sideration whereof and for reasons appearing to the
court it is adjudged ordered and decreed that
that ~~Henry J. Morgan~~ James W. Orr commissioner, do
after due notice to the parties proceed to,
state the matters of account between the parties what
sum what Riddle owes to Currier therefor yet
price was agreed to be paid therefor~~e~~ and what
the rents of said lands are worth and how
long defendant ~~Wyatt~~ Wyatt, has occupied the
same, and what permanent, improvements
have been placed on ~~to~~ said lands by defendant
Wyatt, and whether or not the note sued on
is the last installment, of the purchase money.
He will report any matter deemed perti-
nent by himself, or required by either party,
and report his action to this court and the
cause is continued.

Wm. G. Barron

vs. } Decree -

Jonathan M. Wyatt et al

March T. 1877.

Ent Page 633.

Jas W Orr. clk.

File

Enter this decree
Apr. 5 1877.
Jn. A. K.

Fo
July 23/77.

Virginia,
Lee county circuit court,

Wm N. G. Barron Sr. Plaintiff
against
Jonathan M Wyatt et al Defendants } In Chy.

The depositions of J. M. Wyatt, D. H. Bruce & J. A. G. Hyatt ———— taken before the undersigned Comr., in taking an account in said cause, at Turkey Cove Seminary in said County on the 25th day of June 1877.

The said Jonathan M Wyatt a witness of lawful age and being first duly sworn deposes and says.

I purchased from John A G Hyatt the undivided interest of Jas M Carico & Caroline Carico his wife in and to the dower lands of Mary Jones decd, in the lands of Stephen Jones decd, on the 16th day of February 1871. at the price of $350.00, and he assigned and transferred to me on that day, the title bond of said Jas M Carico for a title to said land, executed by him to John B F Riddle, to whom he had sold the land, and which title bond had been assigned by said Riddle to said Hyatt, and I still owe a balance of a note for $150.00 for said land, which is now held by Wm N G Barron Sr., and which note is for the last installment of the purchase money for said interest, and I have been in the possession, or have at least received the rents and profits of said lands, since and including the year 1871. and I Consider the sum of $ as a fair cash annual rental value of the said Jas M & Caroline Carico's interest in the said dower lands, The said Caroline Carico's interest in said dower land was laid off and assigned to me by the Commissioners, together with my own interest therein and the two interests Contain 47 acres, and when I took possession of the said two interests, there was about 20 acres of Cleared land, and since then, and during the last & the present year I have Cleared, & fensed about 4½ or 5 acres on said interests, and have made and repaired Considerable other fensing, on the land, I have also built a dwelling house on the land in which I live, which I consider worth, & which cost me, about $400.00; also another house & stable for a tenant, which I consider worth $50.00, and also a stable near my dwelling, worth $40.00 Outside of the said buildings, I think the improvements done on the land & taxes paid by me, are at least equal in value to the rental value of the land, and I think the said buildings, which I consider permanent improvements, are worth the sums above stated. And further this deponent saith not.

J. M. Wyatt.

The said Daniel H Bruce another witness of lawful age and being first duly sworn deposes and says. — I consider the dwelling house built by Jonathan M Wyatt on the lot of land assigned to him including that bought by him from Hyatt being & his, & his sisters interest in the dower lands of Mary Jones decd, worth $275.00, & the stable worth $40.00, and the house occupied by a tenant worth $50.00, And further this deponent saith not.

D. H. Bruce

The said John A G Hyatt another witness of lawful age, and being first duly sworn, deposes and says. I am acquainted with the land assigned to J. M. Wyatt & his sister Caroline Carico, (now dead) and occupied by J. M. Wyatt since the year 1871 including the year 1877, and I think the clearing fencing and improvement & taxes if paid by Wyatt aside from the building of ~~H~~ houses & Stables is of equal value to the rents for said years.

And I think the building of the houses & stables are worth about $275.00.

And further this deponent saith not.

J. A G Hyatt

The foregoing depositions of J. M. Wyatt. D. H. Bruce & J. A. G. Hyatt were taken subscribed and sworn to before me at the time and place, and for the purposes in the caption mentioned.

Given under my hand. 25th June 1877.

James W Orr. Comr.

Wm N G Barron Sr-

vs } Depositions.

Jonathan M Wyatt et als.

"B"

Virginia,
Lee circuit court.
Wm N C, Barron &c Pleff } In chancery
against
Jonathan M Wyatt et als Defts }

The deposition of Joseph M Carico taken before the undersigned Comr, in taking an account in this cause, on the 1st day of May 1878.

The said Joseph M Carico, a witness of lawful age and being first duly sworn, deposes and says, On the 4th day of December 1869. I sold to John B. F. Riddle, the undivided interest, of myself & wife in and to the dower of Mary Jones dead, widow of Stephen Jones, in his real Estate, lying in Turkey Cove Lee county Va. for the sum of Three hundred and fifty dollars. One hundred & twenty five dollars part of said purchase money was paid down, and for the residue $225.00 John Riddle executed his note to me due in twelve months; and this last mentioned sum, I consider yet due and owing for said land, There are other unsettled matters between myself and John Riddle & John B. F. Riddle, but I think I have claims sufficient outside of said notes against them, to cover whatever amount of debts they may have against me. The interest sold to Riddle was acquired in this way. I married Caroline Wyatt, who was the daughter of Lodena Wyatt ~~and~~ who was the daughter of Mary & Stephen Jones, and said Lodena married Nathaniel Wyatt and the said Lodena Wyatt & Nathaniel Wyatt died leaving two children Jonathan M Wyatt & Caroline Wyatt, my wife the said Caroline died July 24th 1876. leaving the following Children Charlie C, Hugh M, Robert C, Harriett V, & Jonathan M. all of whom are minors,

I think the sale to Mr Riddle was for a fair price, and I am anxious for the contract and sale to be carried out, and think it will be advantageous to the interest of the minor children of myself and wife, that the sale be carried out, and the contract executed between myself and Riddle, and I am of opinion, Mr John B H Riddle, from what he tells me, is ~~an~~ ready and anxious to pay the purchase money whenever the title can be made, to him. And further this deponent saith not.

Jos. M. Carico

The foregoing deposition of Jos M Carico was this day taken subscribed and sworn to before me at the time and place, and for the purposes mentioned in the caption~~at~~. Given under my hand this 1st day of May 1878.

James W Orr. Comr

Wm N G Barron Sr-

vs } Depo-

Jonathan M Wyatt et als.

6

To the Honorable Jno A Kelly Judge of the circuit court of Lee county Virginia.

Your commissioner appointed by a decree at the March term 1877. in the chancery cause of Wm N G Barron against Jonathan M Wyatt et als, respectfully reports that he proceeded on the 25th day of June 1877. after notice to the parties at Turkey Cove Seminary, to take the account ordered in said cause, and took some depositions, which are herewith filed mark "B" and adjourned indefinitely, and again at the Clerk's office of Your Honors Court on the 1st day of May 1878, I Concluded the account in said cause, taking the deposition of Joseph M Carico, which is herewith filed marked "C" and which gives a clear statement of the transaction between said Carico & Riddle, From the said deposition of Carico it appears that he on the 4th day of December 1869, sold to John B F Riddle for the sum of $350.00 the undivided interest of himself & wife in the dower of Mary Jones dec'd in the real estate of Stephen Jones dec'd, lying in Turkey Cove Lee County Va, $125.00 part of the purchase price being paid down and a note for the reside being executed, due in one year and the said residue of $225.00 due Decr 4th 1870, is still unpaid and owing from said Riddle.

It further appears from said Carico's deposition that Lodena Jones daughter of Stephen & Mary Jones married Nathaniel Wyatt and the said Nathaniel & Lodena Wyatt died leaving two children, Jonathan M Wyatt & Caroline Wyatt, and that the said Caroline

Wyatt married the said Joseph M Carico and afterwards died July 24th 1876, leaving the following children, who are all minors, Viz - Charlie C, Hugh M, Robert C, Harriett V, & Jonathan M. So it will be seen that the said Joseph M Carico undertook, after the death of his wife, to sell his & her interest in said dower, to Mr Riddle, and he executed his title bond, which is with plaintiffs bill marked "A". From the deposition of Jonathan M Wyatt, it will be seen he purchased the said interest from John A Q Hyatt at the price of $350.00 and the said Hyatt assigned the said title bond of Carico to said Wyatt, and the said Wyatt still owes a note of $150.00, the note sued on, on the purchase money, and which is the last installment of purchase money from him to Hyatt. The said Wyatt has been in the possession of said land since and including the year 1871. the said interest of Carico & wife having been laid of by the Commissioners who partitioned the said dower land, to the said Jonathan M Wyatt, along with his own interest in said land, the two interests Containing 47 acres. Your Commissioner is of opinion from the depositions of Wyatt, Bruce & Hyatt. that the permanent improvements put upon said land by said Wyatt is worth about $365.00, and as to the value of ~~other impr~~ the rents and profits of said land, over and above other improvements done and taxes paid, I have not been able to obtain sufficient information to enable me to arrive at a Conclusion, However your Honor will see from the deposition of said Carico, who is the father of the infants in whom the legal title now rests except the said Caricos interest, and in fact did, at the time of the sale by Carico to Riddle, that he is of opinion the said sale was for a fair price, and thinks it will be advantageous to the interest of the infants that the sale made by him be carried out and the Contract executed between him and Riddle, and that he is anxious that that Course be pursued, and we would suppose he would feel some interest in their welfare and would truly represent it, and if this Course should be pursued ~~you~~ and the balance of the purchase money from Riddle to Carico be collected, and properly invested for the infants, your Commissioner is of opinion, also, that it would probably be to their interest, as it is not reasonable that the land, outside of the improvements, would to day sell for as much as it has heretofore brought, and we would thus settle a very much tangled affair, and in that event I do not suppose it would be necessary to further investigate the matter of rents and profits. Respectfully submitted.

James W Orr. Comr

Wm N G Barron

vs } Comr Orr's Report

Jonathan M Wyatt et als

Filed May 10th 1878.

James W Orr. Clerk

Comrs fee $ 6.00

know all men by thes presents that
I Jos M Carico of the county of
Wise & State of Va are held
& firmly Bound unto John B. F.
Riddle in the penal Sum of
Seven hundred dollars Current
money of Va which payment
Well & truly to be made I bind my
Self my heirs &c firmly by thes
presents Sealed with my Seal &
dated this the 9th D December 1867
Now the condition of the a bove
obligation is Such that Whare
as the Said Jos M Carico him
or his heirs Shal make or caus
to be made a good & Sufficent
title in feesimple to John B. F. Riddle
my undevided intrust of lands both
By urship & purchase in to the
Dowery of Mary Jones widow of Stephen
Jones Deceased the Said title agreable
to this obligation is Such that
if the title is made agreable
to this obligaton is made or or befor
the first day of Januay Eighten Hundred and
Seventy one the said obligation is to be null
and void othe wis it Shall remain in
full fores and virtue at Law signed and
seald in the presence of
test
James F Jones

Jos M Carico (Seal)

This the 10th day of December 1870
I herby warrant generally the within Bond, and assign it over to John A. G. Hiatt his hers &c for value received as witness whereof I hereunto set my hand and seal this the date above written.

Test John Riddle John B. F. Riddle (Seal)

This the 16th day of February 1871.
I this day assign the within Bond over to Jnothan M. Hyatt for value Received and with its proceeds of rent for this year, witness my hand and seal — Jno A. G. Hiatt (Seal)

Test.
James F. Jones

1
Joseph M. Carrico heirs
To Bond
John B. F. Riddle
To J. A. G. Hiatt

(34)

$150.00

By the 16th day of February 1872 I bind myself heirs &c to pay John A G Hiatt One Hundred and Fifty Dollars as the purchase money of his interest in Mary Jones's Dowery lands, and a lien is hereby held on the lands for the true payment of the same, for value received, and bearing interest from date. as witness my hand and seal this the 16th day of February 1871.

Test
James F. Jones

Jonathan. M. Wyatt (Seal)

I assign the within Note over to Wm. N. G. Barron Sr paper 3.64 for value received Decr. 4 1871.
Jno. M. Wyatt

Jno. M. Wyatt
To Note
$150.00
Interest bearing

Due 1 Decr 1871
on within Note
$123.69
Due Feby 12th
1876. $154.19

154.50
33.03
121.57
2.12
$123.69

Cr. to Ballance Note given to F. Richmond within note
on the 17th August 1876 - wheat &c $33.03
By the within Note $19.05
June the 2ond 79.

The Commonwealth of Virginia:

TO THE SHERIFF OF LEE COUNTY---Greeting:

WE COMMAND YOU TO SUMMON Jonathan M. Wyatt and John S. G. Wyatt

to appear before the Judge of the Circuit Court of Lee County, at the Court-House, in the Clerk's Office, at Feby. *Rules next, to answer a bill in Chancery exhibited in our said Court against* them by Wm N. G. Barron Sr.

And have then there this writ. Witness. JAMES W. ORR, Clerk of our said court, at the Court-House, this 29. *day of* Decr. *187*6*, in the* 101 *year of the Commonwealth.*

R. W. Orr Jr D.C.

H & P.

Wm N. G. Barron Sr.
vs. } Spa in Chy.
Jonathan M. Wyatt et al

Feby. Rules 1877

Executed T C Scott
DS for T S Ely SSC.

The Commonwealth of Virginia,

To the Sheriff of Lee County--Greeting:

WE COMMAND YOU TO SUMMON John Riddle & John B. F. Riddle

to appear before the ~~Judge of our~~ undersigned Court in Chancery of the Circuit Court for Lee County, at the Court-House, on the 23rd day of July 1877 ~~Term next~~, to testify and the truth to speak in behalf of Wm N. G. Barron in certain matters of controversy pending in our said court between said Barron PLAINTIFF, and J. M. Wyatt et al DEFENDANTs And this they shall in no wise omit under the penalty of TWENTY DOLLARS. And have then there this writ. Witness, JAMES W. ORR, Clerk of our said Court at the Court-house, this 29th day of June 1877 in the 101st year of the Commonwealth.

James W Orr CLERK.

Wm N G Barron
vs } Sfia
J. M. Wyatt et al

23rd day July 1877.

Executed
J C Scott
D S for Thos S Ely
S L C.